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EXAMINER

ROSARIO, DENNIS

ART UNIT

PAPER NUMBER

2621

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/002,706

Applicant(s)

SEAMAN ET AL.

Examiner

Dennis Rosario

Art Unit

2621

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 June 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) The period for reply expires _____ months from the mailing date of the final rejection.
 b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) They raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) They raise the issue of new matter (see NOTE below);
 - (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. Applicant's reply has overcome the following rejection(s): _____.

6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 4-20.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attached Response to Remarks sheet.

12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. Other: _____.

JOSEPH MANCI
PRIMARY EXAMINER

Response to Remarks

1. With regard to claim 4, page 9 of the amendment, filed June 17, 2005, which states:

"Lui says nothing about image meta-data that was created by applying a predefined image analysis program to digital image data to identify content within the image."

Lui does say something about image meta-data as shown in fig. 2, num. 220: Generic Multimedia Metadata table (cache) that was "created" in column 1, line 31 and shown in fig. 7, num. 510 by applying a predefined image analysis program as further described below using figure 7.

Wherein fig. 7 includes "exist[ing]" in col. 15, line 46 metadata and shown in fig. 2,num. 220: Generic Multimedia Metadata table (cache). Thus, figure 7 includes a predefined or existing metadata in fig. 2, num. 220.

Wherein fig. 7 includes an image or "image file" in step 500 of fig. 7.Thus, figure 7 includes a predefined or existing metadata in fig. 2, num. 220 and an image or image file.

Where fig. 7 includes a "determin[ing]" in col. 15, line 33 step 508 that can be "per-formed by analyzing" in col. 15, lines 3,4. Thus, figure 7 includes a predefined or existing metadata in fig. 2, num. 220 , an image or image file and a determining/analyzing step 508.

Wherein fig. 7 describes the function of an "abstraction interface" in col. 16, line 27 that is a "program" in col. 16, line 25. Thus, figure 7 includes a predefined or existing metadata in fig. 2, num. 220 , an image or image file, a determining/analyzing step 508 and is a program. Hence figure 7 is a predefined image analysis program.

2. Page 9 of the amendment also states:

"...Lui does not describe a process in which meta-data is generated through application of an image analysis program."

However, Lui does describe a process (Fig. 7 is a process) in which meta-data is generated (fig. 7, num. 510: Create and store generic metadata...) through application of an image analysis program (Fig. 7 is the image analysis program as described above.).

3. Page 9 of the amendment states, "...Lui does not state that the 'metadata' identifies 'content within the image'."

However, Lui does state that the "metadata" in col. 8, line 3 identifies "color content" in col. 7, line 66 within the "photo image" in col. 7, line 63 "to retrieve" in col. 8, line 2, which is a form of identifying, the photo image.

4. With regard to claims 7 and 13, pages 10,11 which states:

"Lui fails to teach 'applying at least one predefined image analysis program...to identify content within the image' so as to result in 'generating image meta-data corresponding to image content.' "

However, Lui does teach applying at least one predefined image analysis program as mentioned in paragraph 1 above...to identify "color content" in col. 7, line 66 within the "photo image" in col. 7, line 63 so as to "result[]" in col. 15, line 37 in generating via step 510: "Create and store generic metadata..." of fig. 7 image "[generic] meta-data" in col. 8, line 3 corresponding to image "color content" in col. 7, line 66.

The argument of claim 13 is similar to claim 7; thus, the response to the argument of claim 7 is equally applicable to claim 13.

5. With regard to claim 16, page 12 which states:

"...Lui does not teach a method for searching image files comprising:

a) searching one or more image files for image meta-data that was 'generated by applying a predefined image analysis algorithm to a digital representation of an image to identify content within the image.'"

However, Lui does teach a method of searching image files comprising:

a) searching one or more image files (or "search stored images" in col. 7, lines 26,27 to "search for...metadata" in col. 15, lines 42,44) for image meta (or "generic metadata" as shown in fig. 7, num. 510) that was generated (in step 510 of fig. 7 or "exists" in col. 15, line 46 which implies that the generic meta data is already present and ready to be searched.) by applying a predefined image analysis algorithm (as shown in fig. 7 and described in paragraph 1 above.) to a digital representation of an image (as shown in fig. 7, num. 500:"...image file...") to identify "color content" in col. 7, line 66 within the image by "designating a metadata ordering key" in col. 8, line 3 which corresponds to fig. 7, step 504: Pass request to proper Codec for requesting color content.

6. With regard to claim 7, page 10 which states:

"Lui clearly does not teach an 'image capture device' that is capable of the above-described actions."

Eventhough Lui clearly does not teach an image capture device that is capable of the above-described actions, Lui does teach a "hand-held device[]" in col. 4, line 16, such as an image capture device or "digital cameras" in col. 1, line 51, that is capable of performing the above-described actions.

7. With regard to claim 7, page 10 which states, "The computer 110 is described in detail in columns 4-6 and clearly is not an 'image capture device.' "

Lui does teach that the computer 110 can be a pluraliy of devices including a "hand-held...device" in col. 4, line 27 which can be a "digital camera" in col. 1, line 51. In addition computer 110 performs a form of capturing images by storing images as represented in fig. 2, num. 214: Multimedia Files which are from from a "camera" in col. 1, line 51 that also captured or "record[ed]" in col. 1, lines 51,52 "photographs" in col. 1, line 51 in "digital storage media" in col. 1, line 49 that stores "multimedia files" in col. 1, lines 52,53 as shown in fig. 2, num. 214: Multimedia Files.

8. With regard to claim 19, page 12 states:

"'Lui does not teach a method for locating an image file that comprises receiving an image file comprising meta-data that matched meta-data specified in a search query, the image meta-data 'having been generated by applying a predefined image analysis algorithm to the digital representation of the image to identify content within the image.' "

However, Lui does teach a method for locating an image that comprises:

- a) receiving (or "retriev[ing]" in col. 8, line 2) an image file (or "files" in col. 8, line 2 and shown in fig. 2, num. 214: Multimedia Files) comprising:

a1) meta-data or ("generic metadata" in col. 8, line 40 or "metadata items" in col. 15, line 43) that matched meta-data or ("meta-data values" in col. 7, line 27 or "request for metadata" in col. 15, lines 43,44), specified in a search or ("search" in col. 7, line 26 and col. 15, line 42) query (or "quer[y]" in col. 7, line 29) because the generic metadata or metadata items was "request[ed]" in col. 7, line 29 and col. 15, line 43 via "metadata values" in col. 7, line 27 or "request for metadata" in col. 15, lines 43,44,

a12) the image meta data (or generic meta-data or metadata items) having been generated by applying a predefined image analysis algorithm (,as mentioned in paragraph 1 above,) to the digital representation of the image(, as represented in fig. 7, step 500:"...image file...") to identify content (or "color content" in col. 7, line 66) within the image using the meta-data values or request for metadata or "ordering metadata key" in col. 8, line 3 to "arange" in col. 8, line 2 the image file according to color content.